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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,324	08/04/2005	Alan Robert Burns	03955.0148USWO	9110

23552 7590 02/12/2007
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER

KERSHTEYN, IGOR

ART UNIT	PAPER NUMBER
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3745

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/519,324

Applicant(s)

BURNS ET AL.

Examiner

Igor Kershteyn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17, 19-21, 30 and 32-34 is/are rejected.
- 7) ☒ Claim(s) 16, 18, 22-29 and 31 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/17/2005</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States:

Claims 1-6, 12-15, 17, 18, 27, 28, and 32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Feldman et al. (6,457,307).

In figures 1-2, Feldman et al. teach an apparatus for capturing wave energy in a body of water, the apparatus comprising a body structure 10 having a portion 14 thereof adapted to deflect in response to wave action, a pump 18 defining a pumping chamber S1,S2 adapted to undergo expansion and contraction in response to deflection of the portion of the body structure, the pumping chamber having an inlet 60,62 communicating with a fluid source 30 and an outlet 64,66, whereby fluid from the fluid source is drawn into the pumping chamber upon volume expansion thereof from the pumping chamber and is discharged through the outlet upon volume reduction thereof through the outlet.

Claims 1, 17, 19-21, 30, 33, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by GB-2267128-A.

In figures 1-5, '128 teaches an apparatus for capturing wave energy in a body of water, the apparatus comprising a body structure having a portion 26,28,29 thereof

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adapted to deflect in response to wave action, a pump defining a pumping chamber a,b adapted to undergo expansion and contraction in response to deflection of the portion of the body structure, the pumping chamber having an inlet a1,b1 communicating with a fluid source and an outlet a2,b2 whereby fluid from the fluid source is drawn into the pumping chamber upon volume expansion thereof from the pumping chamber and is discharged through the outlet upon volume reduction thereof through the outlet.

Claims 1-11, 17-21, 23, 30, and 32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by GB-2007314-A.

In figures 1-6, '314 teaches an apparatus for capturing wave energy in a body of water, the apparatus comprising a body structure having a portion 1 thereof adapted to deflect in response to wave action, a pump defining a pumping chamber 2 adapted to undergo expansion and contraction in response to deflection of the portion of the body structure, the pumping chamber having an inlet 4 communicating with a fluid source and an outlet (not numbered) whereby fluid from the fluid source is drawn into the pumping chamber upon volume expansion thereof from the pumping chamber and is discharged through the outlet upon volume reduction thereof through the outlet.

Claims 1-6, 12-15, 17, 18, 27, 28, and 32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Margittai (5,473,892).

In figures 1-3, Margittai teaches an apparatus for capturing wave energy in a body of water, the apparatus comprising a body structure 10 having a portion 34 thereof

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adapted to deflect in response to wave action, a pump 24 defining a pumping chamber 26 adapted to undergo expansion and contraction in response to deflection of the portion of the body structure, the pumping chamber having an inlet 22 communicating with a fluid source and an outlet 20 whereby fluid from the fluid source is drawn into the pumping chamber upon volume expansion thereof from the pumping chamber and is discharged through the outlet upon volume reduction thereof through the outlet.

Allowable Subject Matter

Claims 16, 18, 22-29, and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art

Prior art made of record but not relied upon is considered pertinent to Applicant's disclosure and consist of two patents.

Holmes (4,627,240) is cited to show an apparatus for capturing wave energy in a body of water, the apparatus comprising a body structure having a portion thereof adapted to deflect in response to wave action, a pump defining a pumping chamber adapted to undergo expansion and contraction in response to deflection of the portion of the body structure, the pumping chamber having an inlet communicating with a fluid source and an outlet whereby fluid from the fluid source is drawn into the pumping

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chamber upon volume expansion thereof from the pumping chamber and is discharged through the outlet upon volume reduction thereof through the outlet.

Meyerand (4,630,440) is cited to show an apparatus for capturing wave energy in a body of water, the apparatus comprising a body structure having a portion thereof adapted to deflect in response to wave action, a pump defining a pumping chamber adapted to undergo expansion and contraction in response to deflection of the portion of the body structure, the pumping chamber having an inlet communicating with a fluid source and an outlet whereby fluid from the fluid source is drawn into the pumping chamber upon volume expansion thereof from the pumping chamber and is discharged through the outlet upon volume reduction thereof through the outlet.

Contact information

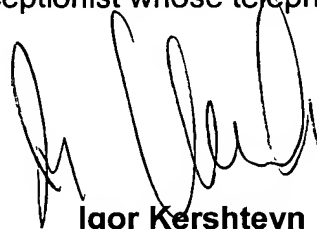
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kershteyn whose telephone number is **(571)272-4817**. The examiner can be reached on Monday-Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look, can be reached on **(571)272-4820**. The fax number is 571-273-8300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308 0861.

IK
February 1, 2007

A handwritten signature in black ink, appearing to read 'Igor Kershteyn', written over a horizontal line.

IGOR KERSHTEYN
PRIMARY EXAMINER

Igor Kershteyn
Primary Patent examiner.
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